

EXHIBIT D

.....
BEGASHAW AYELE, PRO SE,
Plaintiff,

v

COGNISIA SECURITY COMPANY, INC.,
Defendant.
.....

Deposition of BEGASHAW AYELE, taken
on behalf of the Defendant, pursuant to Notice
under the Federal Rules of Civil Procedure,
before Janice A. Maggioli, RPR, RMR, CRR, and
Notary Public in and for the Commonwealth of
Massachusetts, at the offices of Duane Morris,
470 Atlantic Avenue, Boston, Massachusetts, on
April 25, 2005, commencing at 10:00 a.m.

MAGGIOLI REPORTING SERVICES, INC.
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Braintree, Massachusetts 02184
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Witness Direct Cross Redirect Recross

Begashaw Ayele

By Ms. Roberts 5

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APPEARANCES:

Duane Morris, LLP
[By Bronwyn Roberts, Esq.]
470 Atlantic Avenue
Boston, Massachusetts 02210
On behalf of the Defendant.

Begashaw Ayele, Pro se.

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STIPULATION

It is agreed that the reading and signing of the deposition will not be waived.

MS. ROBERTS: Would you swear in Mr. Ayele when you get a chance?

BEGASHAW AYELE,

having been satisfactorily identified and duly sworn by the Notary Public, was examined and testified as follows:

EXAMINATION BY MS. ROBERTS

Q. Mr. Ayele, my name is Bronwyn Roberts. As you know, I represent Cognisia Security Company, Inc., and I have some questions for you today for your deposition.

If you don't understand any question that I ask, please ask me to rephrase it.

A. Okay.

Q. Otherwise, I'm going to assume that the answers that you give are responsive to the questions I ask. Is that agreeable to you?

A. Okay.

Q. Mr. Ayele, what did you do to prepare for today's deposition?

A. Can I ask you before I answer the question? After the deposition is completed, I will have the right to review so that you can attach what they call errata sheet?

Q. That's right. We can do that. It will be sent to you.

A. Okay.

Q. I'll send you a copy.

A. Okay.

Q. You can make any changes that you feel are necessary.

A. Okay.

Q. And we'll agree that once you get a copy, that you will return it to me within 30 days?

A. Signature, yes. Okay. What was the question?

Q. The question was, what did you do to prepare for today's deposition?

A. I see my complaint.

Q. Yes.

A. And the document you sent me last time.

Q. Did you speak with anybody?

A. Not on the deposition.

Q. Did you speak with anyone generally about this case?

A. Yes. When I was making my whole research, three, four, five, six, seven months ago all the way, since I filed the charge from the Commission I make my own research, and the deposition, I told you that it's work product effort, so I will not produce any name or any document.

Q. You are here for a deposition. That's not a proper objection to my question. Are you refusing to answer the question of who you spoke with regarding this case?

A. Yes, I will.

Q. You are refusing for the record to tell me the identity of the people that you spoke with?

A. I never spoke to anybody about the deposition.

Q. I understand that. About your case. Are you refusing to tell me today at your deposition the names of the individuals that you spoke to about your case?

A. Yes. I find some information, some people. I will not tell you that people. That's clear I

will not tell you that. I refuse to answer that question because it's under the work product theory I will tell you. That's the answer, yes.

Q. Well, I will move to compel you to answer that question. How many people did you speak with?

A. Maybe one or two, I think.

Q. Were the one or two people that you spoke with employee ease of Cognisia?

A. People who has knowledge about the company, people who applied the same job I was denied, yes.

Q. So they were -- I'm sorry, I'm not sure if I understood your answer. You spoke with people who had applied to Cognisia?

A. Yes.

Q. Did you also speak with employees of Cognisia?

A. Yes. Yes.

Q. Did you speak with former employees of Cognisia, as well?

A. I don't know about former or present, but when I see the badge (Indicating), I talk about some branch, where the company has some branches so that I will have some idea about the company.

1 A. And I say, "How are you doing?"
 2 And he say, "I'm fine."
 3 Which location? I didn't ask
 4 that detail. I didn't ask him.
 5 q. What did you ask?
 6 A. I asked him how fast the drug test completed.
 7 He says, "One day."
 8 "It finish in one day?"
 9 "Yes."
 10 Okay. I got to go and check the
 11 result, and I went there, and I get the result
 12 I was negative, no drug problem.
 13 q. Okay.
 14 A. And then, okay, that guy was tested with me. I
 15 see him in the street with the uniform, and I
 16 have completed the drug test, but they give me
 17 all excuse every time I call where I should
 18 work. They say, wait, we'll assign you. Wait,
 19 we'll find you work.
 20 q. Let me ask the questions. Do you know anything
 21 about whether this Hispanic man was -- had --
 22 strike that.
 23 Do you know anything about the
 24 educational background of this Hispanic man?

1 A. I never --
 2 q. No?
 3 A. No.
 4 q. Do you know anything regarding the work
 5 experience of this Hispanic man?
 6 A. (Shakes head).
 7 q. No?
 8 A. No.
 9 q. Do you know anything about the hours that this
 10 Hispanic man was working?
 11 A. I didn't interview him in detail. I simply ask
 12 him "Did they hire you?"
 13 "Yes, they hire me." He started
 14 already.
 15 q. Do you know if his job had a concierge-type
 16 position or was a walking position?
 17 A. I didn't --
 18 q. You don't know, do you?
 19 A. No.
 20 q. You said in your MCAD charge that you know that
 21 Cognisia hired people who were given job
 22 assignments that did not involve walking. How
 23 do you know that?
 24 A. How many companies does Cognisia have in the

1 city? They have Verizon downtown. They have
 2 another -- somewhere in downtown.
 3 q. Do you know one individual -- can you name one
 4 individual that was hired in a concierge-type
 5 position in and around December of 2003?
 6 A. Not only in December -- only December, from the
 7 time I was denied people work in a position
 8 that has walking responsibility, sitting
 9 responsibility, combination of both. So --
 10 q. Okay. Who? Can you name any individual that
 11 was hired to work at Cognisia in a job that did
 12 not involve walking? Because you say --
 13 A. Are you asking me 300 people to name it now?
 14 q. You say you know. In your MCAD charge you say,
 15 "Respondent has hired many other nonblack
 16 individuals as security officers and also had
 17 job assignments that did not involve walking."
 18 A. Yes.
 19 q. What information do you base that on?
 20 A. I checked my research. I did my job.
 21 q. Who did they hire? What individuals were hired
 22 for --
 23 A. To name the individual?
 24 q. I'm asking you what you are basing your

1 complaint on.
 2 A. Yeah, I ask some people, some work site. I ask
 3 them what kind of jobs they do. Some people
 4 they say --
 5 q. Do you know when those people were hired?
 6 A. When hired?
 7 q. Do you know when those people were hired?
 8 A. Yes, fresh people.
 9 q. They were new people?
 10 A. New people.
 11 q. How do you know?
 12 A. But some of them I never seen them in that job.
 13 Some people may have been there.
 14 q. Did you ask them "When did you get hired"?
 15 A. Yes, I ask.
 16 q. Who did you ask?
 17 A. I ask people in many places.
 18 q. Which places?
 19 A. Many places. You are --
 20 q. Specifics.
 21 A. Not specifics. You are asking me the research
 22 I make for this lawsuit.
 23 q. You are talking about a work product privilege
 24 which you, as a nonlawyer, don't enjoy. You

1 don't have a work product privilege. You are
 2 not a lawyer, correct?
 3 A. Well, I did mine.
 4 Q. So you're saying you are refusing to tell me
 5 names of the individuals and the places that
 6 they work of people who were hired into jobs
 7 that did not involve walking?
 8 A. There are many people.
 9 Q. You're not going to tell me?
 10 A. I will not tell you.
 11 Q. You refuse?
 12 A. Yes.
 13 Q. Then I'm going to have to move to compel if
 14 that's what you're basing your lawsuit on.
 15 A. Let's continue.
 16 Q. I'm going to ask other questions. I have a lot
 17 of other questions.
 18 A. Okay.
 19 Q. The -- other than the Hispanic man, do you know
 20 if other applicants were hired who were white?
 21 A. There have been many, but still you are asking
 22 me the same question.
 23 Q. And you won't give that answer?
 24 A. The same answer.

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1 Q. And you won't answer whether you know if any
 2 applicants were Asian, correct?
 3 A. Asian?
 4 Q. Yes.
 5 A. What do you mean Asian?
 6 Q. Asian. From Asia. Chinese, Japanese, Pacific.
 7 A. I did my research. File the summary judgment
 8 and you will get the answer. That's how we can
 9 conclude it.
 10 Q. I think I'll file a motion to compel. Do you
 11 know the ethnic origin of any of the applicants
 12 that received jobs?
 13 A. Yes, Spanish guy.
 14 Q. Anyone else?
 15 A. Some other white people.
 16 Q. Is it fair to say that you don't know if there
 17 were any other applicants of Ethiopian descent?
 18 A. Dr. Awake Alemannon. He applied. He was not
 19 hired.
 20 Q. He was not hired?
 21 A. He was not hired.
 22 Q. Are you familiar with Dr. Awake's job
 23 qualifications?
 24 A. Security job he work. Maybe people has been

1 hired less than his qualification. Yes, I know
 2 about him.
 3 Q. Do you know what hours he was looking for?
 4 A. I didn't see his application. I didn't see.
 5 Q. So you're not familiar with his application
 6 specifically, correct?
 7 A. I don't.
 8 Q. Do you know whether Dr. Awake passed a drug
 9 test?
 10 A. He was not sent.
 11 Q. He was not sent?
 12 A. Never.
 13 Q. Do you know if he passed a background check or
 14 a reference check?
 15 A. He was not -- he was not considered at all.
 16 Q. How do you know that?
 17 A. He is my friend.
 18 Q. How do you know that he wasn't considered?
 19 A. He was not sent to for the drug test. He was
 20 not interviewed just as I was, and at least
 21 myself I went through certain steps. He never
 22 go that way, so he outrightly was rejected.
 23 Q. But you made it to at least an interview,
 24 correct?

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1 A. What?
 2 Q. You made it to an interview, correct?
 3 A. Yes, with Jennifer, and what's that name?
 4 Nicole.
 5 Q. So it's fair to say that for the other
 6 applicants from the job fair you don't know
 7 their job histories, correct, from the job
 8 fair?
 9 A. As an applicant, just I went to apply for
 10 myself. I didn't go there to scrutinize
 11 everybody.
 12 Q. Right. And you don't know their job
 13 experiences?
 14 A. I don't know their job experience.
 15 Q. You didn't see their resumes?
 16 A. That's not my business.
 17 Q. You don't know their educational history?
 18 A. I never see anything.
 19 Q. You didn't review their applications, correct?
 20 A. I am not Human Resource person.
 21 Q. So you don't know what factors Cognisia
 22 considered in making the decision to hire or
 23 not hire other applicants, correct? You don't
 24 know, do you?

1 Q. Did they?

2 A. Most probably, yes, but if I didn't take that

3 job because of transportation problem --

4 Q. Did they offer you a job that you could not

5 take because of a transportation problem?

6 A. I think one of the conversation, I don't know

7 exactly --

8 Q. Do you remember where the job was?

9 A. Not really, but I remember if I take it a given

10 day, and transportation was not available.

11 Q. So you could not accept the job offer, correct?

12 A. Yes.

13 Q. They found a job, and they offered it to you,

14 but you couldn't accept it because of

15 transportation problems, correct?

16 A. Yeah, but people --

17 Q. Is that correct?

18 A. People if they don't want to hire you, they can

19 give you any reason.

20 Q. Did --

21 A. They can offer you --

22 Q. Who called you and said, "We have a job for

23 you?"

24 A. I don't remember.

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1 Q. It was either Jennifer or Nicole, correct?

2 A. After that, I mostly talked to -- after the

3 interview, most of my conversation was with

4 Jennifer -- Nicole.

5 Q. With Nicole?

6 A. Yes.

7 Q. And she at one point called you, correct, and

8 offered you a job that you couldn't accept

9 because of transportation, correct?

10 A. Yeah, that may be one.

11 Q. And you don't recall where that was, though,

12 right?

13 A. I don't remember.

14 Q. And it was the hours ended at a time where you

15 could not get public transportation, correct?

16 A. In the interview she --

17 Q. Listen, answer my question.

18 A. She knows --

19 Q. Mr. Ayele, you have to answer my question.

20 A. I am answering the question.

21 Q. No, you're not.

22 A. I did.

23 Q. Is it true that you couldn't accept those hours

24 because public transportation was not available

1 to you when the job ended, correct?

2 A. Yes. She knows in the --

3 Q. Is that correct?

4 A. She knows transportation was a problem, too.

5 Q. Is it correct --

6 A. What's correct?

7 Q. Is it correct that you were offered a job that

8 you couldn't accept because public

9 transportation wasn't available at the time the

10 job got out?

11 A. I don't know where -- the job or where the

12 location is, but when she tell me a job that

13 has a different shift or a different area or

14 different branch, I ask the transportation

15 availability. If transportation is not

16 available, it's useless.

17 Q. You can't take it. I've got you. What

18 evidence of discrimination do you have?

19 A. I have a document that employees that they

20 hired after I was interviewed, after I was

21 offered. They offered me the job, and yourself

22 tell the court last week, last two months the

23 job was actually offered, but the company was

24 not able to accommodate. I don't think you can

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1 deny that, and the company, they know that, but

2 how a company say we cannot find a job for Mr.

3 Ayele while they hire 364 employees in that

4 period of time. It doesn't make sense.

5 Q. What do you -- so you have documented employees

6 that were hired that you're not going to give

7 to me, right? You are not going to tell me who

8 they are?

9 A. No.

10 Q. That's pretty clear.

11 A. Yes. You file that compelling information.

12 Q. I will file my motion to compel.

13 A. That's not a problem.

14 Q. And you believe that Cognisia made a decision

15 not to hire you?

16 A. What do you call it when a person keeps you six

17 months without offering you the job? They sent

18 me drug test. They scrutinize my background.

19 They check my employment history, and after all

20 this, why employers do not hire you?

21 Q. You were not present in any meetings when

22 Cognisia employees were discussing whether or

23 not to hire you, were you?

24 A. Who discussed?

1 q. You weren't present for any meetings where
 2 Cognisia -- any Cognisia employees discussed
 3 whether to hire you or not, were you?
 4 A. To hire me?
 5 q. Yes. You weren't present, were you?
 6 A. I was not.
 7 q. So you don't even know what was discussed at
 8 any meetings regarding whether or not to hire
 9 you, correct?
 10 A. But when people send you drug test, send you
 11 your criminal background, employment
 12 background, after all this and when somebody
 13 calls you, okay, I have a job this shift, that
 14 means they hire you, in effect.
 15 q. You were never told that your application was
 16 rejected, were you?
 17 A. I never been told that.
 18 q. Have you described every instance that you
 19 believe constitutes discrimination today or are
 20 there other acts that you haven't described?
 21 A. Well, I was not hired. Dr. Awake was not
 22 hired, and the statistics shows only one
 23 Ethiopian was hired out of 364, and that person
 24 -- and I don't know if he's Ethiopian or not,

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1 but the last name indicates he is an Ethiopian.
 2 q. What name is that?
 3 A. Weldebrah something. Just one person what I
 4 see.
 5 MS. ROBERTS: Can we take a
 6 quick break?
 7 (Short break was taken.)
 8 q. Can you spell it?
 9 A. This is one Ethiopian.
 10 q. You believe that that is an Ethiopian name?
 11 A. Maybe, but the first name is not Ethiopian. Is
 12 this the only person in the entire 360 people?
 13 If you --
 14 q. So just to be clear, you have pointed to a
 15 document that we produced in our response to
 16 your request for production of documents, and
 17 an individual on that list, Keleta Teweldebrah,
 18 you believe that's an Ethiopian name?
 19 A. It may be.
 20 q. You don't know?
 21 A. The last "weldebrah" is Ethiopian.
 22 q. You're basing who was hired and who was not
 23 hired -- you're guessing as to their ethnicity
 24 based only on their name, correct?

1 A. The only Ethiopian name that looks like
 2 Ethiopian name among the list you give me is
 3 that person.
 4 q. So when you say only one Ethiopian out of 364
 5 individuals hired, the one Ethiopian, the way
 6 you are presuming that there's one Ethiopian is
 7 based only on their name; is that correct?
 8 A. That's only on name. The rest are not
 9 Ethiopians.
 10 q. Now -- you know people can change their name?
 11 A. But Ethiopian never change name.
 12 q. An Ethiopian would never change their name?
 13 A. I never -- I have been in America 22 years. I
 14 never see any Ethiopian changing their name.
 15 q. It's fair to say, though, based on the list
 16 that you were just looking at, there's no
 17 information about whether that individual is
 18 Ethiopian or not nor is there any information
 19 regarding the national origin of any of the
 20 individuals listed, correct?
 21 A. There is no Ethiopian. Even if you take the
 22 list of this 99 people you produced, that's a
 23 very deceptive document.
 24 q. So your evidence of discrimination was that Mr.

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1 Awake -- Dr. Awake was not hired. You were not
 2 hired, and other employees weren't hired, but
 3 I'm not allowed to know who they are without
 4 moving to compel, right?
 5 A. It will be a great mistake if you try to compel
 6 me. You will make this case very protracted.
 7 Really.
 8 q. So you have a perceived disability claim; is
 9 that correct, Mr. Ayele?
 10 A. Perceived, yes.
 11 q. What disability do you believe Cognisia
 12 perceives that you suffered from?
 13 A. They say every time I say -- whenever they say
 14 the job require walking and so on and so on and
 15 when they know that in my application I also
 16 indicated that I don't like to take a walking
 17 job, so they perceived as if I was handicapped.
 18 I am not a disabled person. Reasonable
 19 exercise I can do.
 20 q. Okay.
 21 A. Two, one, three times I can make it through.
 22 That's not a problem.
 23 q. You have an injured leg, right?
 24 A. Injury leg since childhood.

1 You keep me 176 days, and that's not fair, and
2 I know you hired other people, and I cannot
3 tolerate this, and I'm going to sue you, and
4 I'm going to file a charge.
5 **Q.** What -- have you spoken to Jennifer about your
6 case?
7 **A.** Case in detail?
8 **Q.** Yes.
9 **A.** No.
10 **Q.** What knowledge does Nicole Downes have of the
11 allegations in your case?
12 **A.** I don't know if she knows until she receives a
13 complaint from the court. I don't know. I
14 don't know if she knows about my charge until
15 she received it from the EEOC.
16 **Q.** But she knows about your interview?
17 **A.** She interviews me. She was working with
18 Jennifer about possible location of assignment,
19 what side, what location, and she must have
20 note, but they work together. I don't know
21 about their --
22 **Q.** What knowledge does Aaron Feo have of the
23 allegations in your complaint?
24 **A.** I never talked to him.

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1 **Q.** But you mentioned him as somebody who might
2 have knowledge of your allegations.
3 **A.** Yes, because we exchange documents. He is the
4 one who gave an answer for the Commission.
5 **Q.** And what facts does Mr. Ortiz have regarding
6 the allegations in your case?
7 **A.** I don't know. If one of the job
8 applications --
9 **Q.** He checked your --
10 **A.** Yes, job reference.
11 **Q.** He checked references.
12 **A.** It looks like.
13 **Q.** And Dr. Awake, what facts does he have
14 knowledge of?
15 **A.** He was there when I was interviewed. He was
16 one of the candidate. In fact, he had --
17 people -- Dr. Awake right there he sense it.
18 He sense it, "Begashaw, I don't think things
19 are going to work," but I was -- I have been in
20 America than him long time. I said, "Let's
21 give them a try." They try to verify,
22 scrutinize, check out background, and
23 everything, and everything, but he says, "I
24 don't believe it."

1 From the conversation that
2 transpired in just a half an hour, he
3 understood, "Begashaw, they will not hire us,
4 believe me," but I didn't believe him because
5 some employers takes time, and finally after
6 176 days he proved to me really they didn't
7 hire me.
8 **Q.** Do you know if Dr. Awake made a claim against
9 Cognisia?
10 **A.** No, he didn't make.
11 **Q.** Have you spoken to Dr. Awake about your case?
12 **A.** Every other weekend even to the recent time.
13 **Q.** Where does Dr. Awake live?
14 **A.** He live in Canada now.
15 **Q.** What part of Canada?
16 **A.** Ontario.
17 **Q.** Do you have his address?
18 **A.** I don't have it now, but I will have it if --
19 **Q.** Do you know his telephone number?
20 **A.** I may have, yes.
21 **Q.** Will you agree to give me his telephone number?
22 **A.** Why not? If I find it. He may ask maybe to
23 join this lawsuit, too.
24 **Q.** Are there any other things that Dr. Awake knows

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1 about regarding the allegations in your
2 lawsuit?
3 **A.** I don't know. I don't know to what extent, but
4 he was there. He understand it, and he says,
5 This country. We are educated people. He is
6 educated people, honestly, and I seek this job
7 just to survive.
8 My teaching contract was
9 expired. I mean, this is not a military job.
10 It is simply a sitting job down and serve
11 customer. Why not they give us? It's better
12 than to go to Welfare, and he really was deeply
13 disturbed, and only he see things one
14 particular company, but as a nation, why a big
15 nation like this just treat people like this?
16 It may not be the government, but individual
17 people.
18 If individual people mistreat
19 you, challenge them in court. That's my
20 principal. I did it in the past. I will
21 continue to do it. This is a land of justice.
22 I believe somebody made a mistake, it depends
23 on the intentionality or you have to ask.
24 Every people has no obligation

1 to hire anybody, but if you say you have a job,
2 if you know that person is qualified for the
3 job, why don't you give them the equal
4 opportunity?

5 **Q.** Are there any other witnesses that you can
6 think of who have knowledge of facts of your
7 claims in this lawsuit that you haven't already
8 mentioned?

9 **A.** Not, except the two guys who I interviewed.

10 **Q.** Those people you are not revealing their
11 identity?

12 **A.** Yes. That's the law. You are a lawyer. You
13 know that.

14 **Q.** Other than the documents we've discussed today,
15 are there any other documents that you feel
16 support your allegations?

17 **A.** I don't know what you are asking me. So far, I
18 ask you discovery, interrogatory. You answered
19 me in very elusive, very empty, so --

20 **Q.** Have you obtained any written or recorded
21 statements?

22 **A.** No.

23 MS. ROBERTS: Can we just go off
24 the record.

1 to create a time conflict.

2 **Q.** I will agree to do it at a mutually convenient
3 time.

4 **A.** So today you excuse me?

5 **Q.** Today we're suspending.

6 (Deposition of BEGASHAW AYELE suspended.)
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1 (Short break was taken.)

2 **Q.** You have not retained -- you have not obtained
3 any written or recorded statements from any
4 witnesses?

5 **A.** I ask people what happened. If I have to take
6 a note, I may take a note.

7 **Q.** You have taken your own notes?

8 **A.** I never record a paper.

9 **Q.** And no one has given you a written statement,
10 no?

11 **A.** No.

12 MS. ROBERTS: Well, I am going
13 to suspend this deposition now at 20 minutes of
14 4 because I think that there are facts that Mr.
15 Ayele is not providing specifically he claims
16 are work product privilege for individuals that
17 he has talked to who he claims were hired or
18 have facts regarding his case, and I will move
19 to compel that answer in any -- and reserve the
20 right to take any follow-up deposition
21 questions that relate to that.

22 **A.** If you have to schedule deposition, I have to
23 know ahead of time because I'm looking some
24 other things to do. I don't want this

1 I hereby certify that I have read the
2 foregoing deposition transcript of my
3 testimony, and further certify that said
4 transcript is a true and accurate record of
5 said testimony.
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BEGASHAW AYELE

Signed under the pains and penalties of
perjury this ____ day of _____, 2005.

I, Janice A. Maggioli, a Registered Professional Reporter and Notary Public duly commissioned and qualified within and for the Commonwealth of Massachusetts, do hereby certify that there came before me on the 25th day of April 2005 at 10:00 a.m., the person hereinbefore named, who was by me duly sworn to testify to the truth and nothing but the truth of his knowledge touching and concerning the matters in controversy in this cause; that he was thereupon carefully examined upon his oath and his examination reduced to typewriting under my direction; and that the deposition is a true record of the testimony given by the witness. I further certify that I am not interested in the event of the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 2nd day of May 2005.

Notary Public